

THE HONORABLE RICARDO S. MARTINEZ

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

BLACKSTONE INTERNATIONAL, LTD.,
a Maryland corporation,

CASE NO. 2:20-CV-00964-RSM

Plaintiff,

V.

COSTCO WHOLESALE CORPORATION,
a Washington corporation,

Defendant.

**STIPULATED MOTION AND
ORDER REGARDING
DEFENDANT'S MOTION TO
COMPEL ARBITRATION AND TO
STAY PROCEEDINGS**

**NOTE ON MOTION CALENDAR:
Friday, January 15, 2021**

STIPULATION

1. Defendant Costco Wholesale Corporation (“Costco”) has filed a Motion to Compel Arbitration and to Stay Proceedings [Docket No. 12] (the “Arbitration Motion”). In its Arbitration Motion, Costco requests that the Court compel plaintiff Blackstone International, Ltd. (“Blackstone”) to “arbitrate its claims in this action and stay this action pending the arbitration proceeding.” Arbitration Motion at p.2. Costco has also initiated an arbitration proceeding against Blackstone, which is currently pending before the American Arbitration Association as Case No. 01-20-0005-5583 (the “AAA Arbitration Proceeding”).

2. Blackstone opposes the Arbitration Motion, challenges arbitrability (including the validity and/or enforceability of any purported arbitration agreements), and disputes that its claims

against Costco in this action are arbitrable. However, rather than oppose the Arbitration Motion and while reserving all rights concerning arbitration and arbitrability (including whether any purported arbitration agreement is valid and/or enforceable), and based on Costco's agreement to adjust the schedule in the Arbitration Proceeding to accommodate submission to the Arbitrator, Blackstone will allow the Arbitrator in the Arbitration Proceeding to determine the arbitrability of the claims at issue in the Arbitration Motion.

3. In addition, Blackstone has asserted a separate action against defendants E2 Limited, Collin Carpenter, Big Box Sales & Marketing Inc., and Technomate Manufactory, Ltd. (collectively, the "E2 Defendants"), which is also currently pending before this Court as Case No. 2:20-cv-01686-RSM (the "E2 Action"). The E2 Defendants are represented by the same undersigned counsel representing Costco. The E2 Defendants and Costco believe that the E2 Action should be consolidated with this action. Blackstone believes that the issue of arbitrability of the claims at issue in the Arbitration Motion should be addressed first and, if there are claims remaining in this action that are not arbitrable, then the parties can address whether consolidation is appropriate.

4. Counsel for the parties have met and conferred in good faith regarding the pending Arbitration Motion and possible consolidation. Accordingly, pursuant to the parties' stipulation, and subject to the Court's approval, the parties specifically agree as follows:

(a) The parties will allow the Arbitrator in the AAA Arbitration Proceeding to determine arbitrability of the claims that Blackstone has asserted in this action, and this action will be stayed pending the Arbitrator's determination of arbitrability of those claims.

(b) Except for the right to appeal and/or vacate an arbitrator's decision that may exist (if any) under federal law, Washington law, and/or the AAA rules, the parties further agree that they will respect and abide by the final decision of the Arbitrator in the AAA Arbitration Proceeding regarding arbitrability of the claims Blackstone has asserted in this action and not challenge such

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1 decision in this or any other action.

2 (c) Costco's pending Arbitration Motion shall be stricken as moot.

3 (d) If the Arbitrator determines that all of the claims asserted by Blackstone
4 against Costco in this action are arbitrable, then this action shall continue to
5 be stayed pending the AAA Arbitration Proceeding.

6 (e) If the Arbitrator determines that any of the claims asserted by Blackstone
7 against Costco are not arbitrable, then the stay will be lifted in this action
8 with respect to such claims and such claims will proceed and be tried in this
9 Court.

10 (f) In addition, if the Arbitrator determines that any of the claims asserted by
11 Blackstone against Costco are not arbitrable, the parties shall meet and
12 confer in good faith concerning whether the E2 Action should be
13 consolidated with this action.

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15 **SO STIPULATED** this January 15, 2021.

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17 By: /s/ Christopher M. Huck
Christopher M. Huck
(WSBA No. 34104)

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21 Attorneys for Plaintiff
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23 Attorneys for Defendant
Costco Wholesale Corporation

ORDER

Pursuant to the above Stipulated Motion, **IT IS SO ORDERED**. Costco's pending Arbitration Motion [Docket No. 12] is stricken as moot. This action is hereby **STAYED** pending the Arbitrator's determination of arbitrability of the claims at issue in the Arbitration Motion. The parties shall notify the Court within fourteen (14) days of the Arbitrator's decision and file a Joint Report outlining the parties' respective positions in light of that decision, including with respect to modification of any of the deadlines in the Order Setting Trial Date and Related Dates [Dkt. No. 21].

DATED this 19th day of January, 2021.



RICARDO S. MARTINEZ
CHIEF UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing document was filed electronically with the Clerk of the Court using the CM/ECF system on January 15, 2021 and was served via the Court's CM/ECF system on all counsel of record.

DATED this January 15, 2021.

/s/ Christopher M. Huck
Christopher M. Huck, WSBA No. 34104

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